

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2010-26661
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 13, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 13, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to noncompliance with Jobs, Education and Training (JET).

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing FIP recipient.
2. Claimant contends that she is disabled and not able to attend JET due to her disability.

3. Claimant submitted medical documents in support of her claim that she is too disabled to attend JET.
4. DHS referred Claimant's documents to the Medical Review Team (MRT).
5. On 1/5/2010, MRT concluded that Claimant was not disabled and could attend JET subject to limitations.
6. Claimant was scheduled to attend JET on 1/25/10.
7. Claimant failed to attend JET because of her issues relating to her disability.
8. DHS subsequently scheduled a triage and found that Claimant did not have good cause for her failure to attend JET.
9. DHS initiated closure of Claimant's FIP benefits on 2/23/10 to be effective 3/9/10.
10. Claimant submitted a hearing request on 3/5/10 disputing the MRT finding that Claimant is not disabled and termination of her FIP benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

FIP provides temporary cash assistance to support a family's movement to self-sufficiency. FIP recipients engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and state laws require each work eligible individual (WEI)

in a FIP group to participate in the JET or other employment-related activities unless deferred or engaged in activities that meet participation requirements. BEM 230A at 1

Failure to participate with JET may result in a finding of noncompliance unless a WEI can establish good cause for the failure. BEM 233A at 2. For those clients believed to be noncompliant with JET participation, DHS is to hold a triage to provide the opportunity to the WEI to establish good cause for the lack of JET participation. *Id* at 7. If good cause is established for the absence then the client returns to JET for continued participation. If the WEI fails to establish good cause then DHS may initiate closure of FIP benefits.

BEM 233A lists several circumstances which could establish good cause for not participating with JET. A client who is physically or mentally unfit for JET participation, as shown by medical evidence or other reliable information is one basis for good cause. BEM 233A at 4.

DHS policy seemingly mandates DHS to refer clients claiming a long-term disability to Michigan Rehabilitation Services (MRS) for consultation and evaluation. BEM 230A at 1. Though not found within the policy manuals, a separate “L-Letter” dated 7/21/09 instead requires DHS to submit medical documents to MRT for a determination as to whether the client should be deferred from JET participation based on disability. L-09-102. DHS properly followed the updated policy in processing Claimant’s request for deferral from JET participation.

Claimant’s primary argument is that she is unable to participate with JET because of her disability and that she disagrees with the MRT conclusion stating otherwise. Clients may request a hearing whenever their benefits are affected. BAM 600 at 3. An MRT decision concluding that a client should not be deferred from JET participation is not a DHS decision which directly affects benefits; that decision only indicates that a client should or should not attend JET. The

undersigned lacks the jurisdiction to reconsider the decision by MRT. However, once Claimant's FIP benefits were terminated due to her failure to attend JET, the issue of whether Claimant had good cause for her absence is a reviewable issue.

Claimant did not claim any good cause for her absence from JET except that she is too disabled to attend JET. DHS submitted approximately eighty pages of medical documents relevant to Claimant's disability; Claimant offered no additional documents. The eighty plus pages of documents are the evidence on which the good cause decision will be determined.

Three Medical Needs (DHS-54A) forms were submitted concerning Claimant's work restrictions. The first form (Exhibit 55) was dated 10/28/08 and indicated Claimant could not work at any job for 2-3 weeks due to a cyst on Claimant's scalp. Based on the date of the form and the relatively short amount of deferral, Claimant's cyst on her scalp does not amount to good cause for Claimant's 1/25/10 JET absence.

Two other DHS-54as (Exhibits 53 and 54) were submitted; both were dated 10/3/08 by a Dr. Perlson. Both forms diagnosed Claimant with: depression, severe mood disorder, sleep disorder, hypertension and headaches. Both forms concluded that Claimant was unable to work at any job due to Claimant's conditions. These conclusions have value but are limited in that the medical conclusions are approximately fourteen months prior to Claimant's absence from JET. Without further evidence, Claimant would not have established good cause for her absence from JET.

The medical diagnosis (Exhibits 8-10) relied on by MRT came from Sierra Medical Group. This diagnosis from Dr. Gummadi indicated that Claimant scored 45 on the Global Assessment of Functioning. The diagnosis further concluded that Claimant's depression and psychomotor retardation allowed Claimant to "function in a setting where there is limited

interaction with coworkers, supervisors and the public” and that she was “restricted to performing simple, routine, repetitive concrete tasks.” Based on this medical diagnosis, it is found that Claimant established that she is unfit for JET participation.

The above finding only applies to Claimant’s most recent failure to attend JET. Again, the undersigned lacks authority to reconsider the finding by MRT finding that Claimant is not sufficiently disabled to merit deferral from JET participation because the MRT decision does not directly impact Claimant’s FIP benefits. DHS may resend Claimant to JET for participation and Claimant will have to establish good cause for each subsequent time she fails to attend JET, either at triage or within the administrative hearing process

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant established good cause for her absence from JET. It is ordered that DHS reinstate Claimant’s FIP benefits back to the effective date of FIP benefits closure and to remove any accompanying employment related disqualification.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/10/2010

Date Mailed: 6/10/2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department’s motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CG/jlg

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